

Western District of New York

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

STATE OF NEW YORK)
COUNTY OF MONROE)
CITY OF ROCHESTER)

SS:

16-mj-4145

I, Seth Fleitman, being duly sworn, do depose and say:

INTRODUCTION

1. I am a Special Agent ("SA") with the Federal Bureau of Investigation ("FBI"), and have been employed in that capacity for approximately 4 1/2 years. I am currently assigned to the FBI's Buffalo Division, Rochester Resident Agency. During the course of my employment with the FBI, I have received specialized training in, and have participated in, criminal investigations involving violations of bank fraud, wire fraud, mail fraud, bank robberies, Hobbs Act, violent crimes, identity theft, federal health care laws and other crimes.

2. I make this affidavit in support of a criminal complaint charging the defendant, JAMES WALTON, with bank fraud, in violation of 18 U.S.C. § 1344.

3. The FBI and other law enforcement agencies have investigated allegations that WALTON forged security deposit refund checks that had been issued by his employer to other individuals, and then deposited those checks into his bank account.

4. The statements contained in this affidavit are based upon information learned during my investigation of WALTON, including information provided by other law enforcement agents, witness statements, information recorded on documents, and my training and experience. Because this affidavit is being submitted for the limited purpose of

establishing that there is probable cause to believe that WALTON committed bank fraud, I have not included each and every known fact known to me concerning this investigation.

PROBABLE CAUSE

5. Victim 1 owned several real estate businesses in the greater Rochester area. From at least August 2012, to approximately November 2014, Victim 1 employed WALTON as a property accountant. As a property accountant, Walton's duties included managing the accounts payable for each of the properties, and also reconciliation of the business accounts.

6. Security deposit refund checks were issued in the normal course of business by Victim 1's businesses. Security refund deposit checks for Victim 1's businesses are drawn on various accounts maintained at Tompkins Bank of Castile, a member of the Federal Deposit Insurance Corporation. After a tenant vacated a residence, a property manager would evaluate the condition of the residence. If a tenant left the residence in good condition, then a check for the security deposit refund would be mailed to the tenant.

7. On or about June 2, 2015, Victim 1 contacted law enforcement and reported that WALTON appeared to have been embezzling security deposit refund checks. Law enforcement commenced an investigation into Victim 1's report.

8. According to Victim 1, in or about April 2015, he received two phone calls on two separate occasions from family members of deceased tenants who had been renting properties from Victim 1. The families contacted Victim 1 in order to obtain security deposit refunds for the housing that had been rented by their deceased relatives. After receiving these phone calls, Victim 1 reviewed his business records and bank accounts, and learned that the security deposits had already (supposedly) been issued to the tenants.

Victim 1 reported that, upon further research, he discovered approximately 93 checks written for security deposit refunds that had forged payee signatures and that were endorsed to WALTON. These checks were deposited into WALTON's bank account at First Niagara Bank, a member of the Federal Deposit Insurance Corporation.

9. On October 5, 2015, Greece PD Sargent David Mancuso interviewed an individual who had purportedly received one of the security deposit refund checks. The individual reviewed the check and stated that he/she never saw, signed and/or deposited that check into his/her bank account. In addition, the individual stated he/she did not give anyone permission to endorse his/her name on the check and take the security deposit.

10. On June 22, 2016, WALTON was interviewed by an FBI agent at WALTON's residence in Maryland. At first, WALTON denied any wrongdoing and denied embezzling any money from Victim 1 and his businesses. After the FBI agent explained the facts surrounding the investigation, and reviewed WALTON's bank accounts with WALTON, WALTON stated "I did it."

11. WALTON stated that he got the idea to embezzle security deposits when a few security deposit refund checks were returned in the mail. WALTON explained that he was having health-related money problems, and that taking the refund checks seemed easy. WALTON further explained that, when some people complained about not receiving refund checks, WALTON went to his bank and obtained got a bank check, which he then mailed the people who complained. Towards the conclusion of the interview, WALTON stated he stopped taking the refund checks because he believed he would get caught.

12. A review of bank records shows that, from in or about August 1, 2012 to in or about November 30, 2014, WALTON deposited into his account at First Niagara Bank approximately 83 fraudulently-endorsed security deposit refund checks totaling approximately \$37,104.

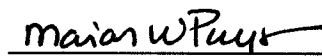
CONCLUSION

13. For the foregoing reasons, I respectfully submit that there is probable cause to believe that the defendant, JAMES WALTON, executed a scheme and artifice to obtain monies, funds and property under the custody and control of a financial institution by means of false and fraudulent pretenses, representations and promises in violation of Title 18, United States Code § 1344(2).



SETH FLEITMAN
Special Agent
Federal Bureau of Investigation

Subscribed and sworn to before me
this 12 day of December, 2016.



MARIAN W. PAYSON
United States Magistrate Judge
Western District of New York